

**UNITED STATES DISTRICT COURT**  
**District of Maine**

**VINCE A. BERUBE,**  
**Plaintiff**

**v.**

**CARLY CONLEY, et al,**  
**Defendants**

)  
)  
)  
)  
)  
)  
)  
)  
)  
)

**Civil No. 05-217-P-S**

**ORDER AFFIRMING THE**  
**RECOMMENDED DECISION OF THE MAGISTRATE JUDGE**

The United States Magistrate Judge filed with the Court on September 29, 2006, his Recommended Decision (Docket No. 42). Defendants filed their Objection to the Recommended Decision (Docket No. 44) on October 11, 2006. Plaintiff filed his Objection (Docket No. 45) on October 19, 2006. Plaintiff filed his Response to Objection (Docket No. 46) on October 30, 2006.

I have reviewed and considered the Magistrate Judge's Recommended Decision, together with the entire record; I have made a de novo determination of all matters adjudicated by the Magistrate Judge's Recommended Decision; and I concur with the recommendations of the United States Magistrate Judge for the reasons set forth in his Recommended Decision, and determine that no further proceeding is necessary.

1. It is therefore ORDERED that the Recommended Decision of the Magistrate Judge is hereby AFFIRMED.

2. Defendants' Motion for Summary Judgment (Docket No. 8) is GRANTED as to any claims for violation of the Plaintiff's rights to substantive or procedural due process under federal law and as to any claims under federal and state law for the use of excessive force by Defendant Conley in circumstances where the Plaintiff's conviction in state court for criminal threatening necessarily involved the Plaintiff's placing Conley in fear of imminent bodily injury by the Plaintiff, and otherwise DENIED.

/s/ George Z. Singal  
Chief U.S. District Judge

Dated: November 6, 2006.

**VINCE A BERUBE**

represented by **JOHN S. CAMPBELL**  
CAMPBELL & ASSOCIATES PA  
75 MARKET STREET  
PO BOX 369  
PORTLAND, ME 04112-0369  
207-775-2330  
**PETER E. RODWAY**  
RODWAY & HORODYSKI  
30 CITY CENTER  
PORTLAND, ME 04104  
773-8449

**Defendant**

**CARLEY CONLEY**

represented by **EDWARD R. BENJAMIN, JR.**  
THOMPSON & BOWIE  
3 CANAL PLAZA  
P.O. BOX 4630  
PORTLAND, ME 04112  
774-2500

**Defendant**

**ERIC W SYPHERS**

represented by **EDWARD R. BENJAMIN, JR.**  
(See above for address)

**Defendant**

**MATTHEW VIERLING**

represented by **EDWARD R. BENJAMIN, JR.**  
(See above for address)